

104TH CONGRESS
1ST SESSION

S. 1059

To amend section 1864 of title 18, United States Code, relating to tree spiking, to add avoidance costs as a punishable result.

IN THE SENATE OF THE UNITED STATES

JULY 21 (legislative day, JULY 10), 1995

Mr. CRAIG introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend section 1864 of title 18, United States Code, relating to tree spiking, to add avoidance costs as a punishable result.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. FEDERAL TREE SPIKING AND AVOIDANCE**
4 **COSTS.**

5 Section 1864 of title 18, United States Code, is
6 amended—

7 (1) in subsection (b)—

8 (A) in paragraph (2), by striking “twenty”
9 and inserting “40”;

1 (B) in paragraph (3), by striking “ten”
2 and inserting “20”;

3 (C) in paragraph (4), by striking “if dam-
4 age exceeding \$10,000 to the property of any
5 individual results,” and inserting “if damage to
6 the property of any individual results or if
7 avoidance costs have been incurred exceeding
8 \$10,000, in the aggregate,”; and

9 (D) in paragraph (4), by striking “ten”
10 and inserting “20”;

11 (2) in subsection (c) by striking “ten” and in-
12 serting “20”;

13 (3) in subsection (d), by—

14 (A) striking “and” at the end of paragraph
15 (2);

16 (B) striking the period at the end of para-
17 graph (3) and inserting “; and”; and

18 (C) adding at the end the following:

19 “(4) the term ‘avoidance costs’ means costs in-
20 curred by any individual for the purpose of—

21 “(A) detecting a hazardous or injurious de-
22 vice; or

23 “(B) preventing death, serious bodily in-
24 jury, bodily injury, or property damage likely to

1 result from the use of a hazardous or injurious
2 device in violation of subsection (a).”; and

3 (4) by adding at the end thereof the following:

4 “(e) Any person injured as the result of a violation
5 of subsection (a) may commence a civil action on his own
6 behalf against any person who is alleged to be in violation
7 of subsection (a). The district courts shall have jurisdic-
8 tion, without regard to the amount in controversy or the
9 citizenship of the parties, in such civil actions. The court
10 may award, in addition to monetary damages for any in-
11 jury resulting from an alleged violation of subsection (a),
12 costs of litigation, including reasonable attorney and ex-
13 pert witness fees, to any prevailing or substantially pre-
14 vailing party, whenever the court determines such award
15 is appropriate.”.

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